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United States of America

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
Plaintiff  
v.  
JONATHAN LOPEZ,  
Defendant

CASE NO. 1:22-CR-00291-JLT-SKO

**STIPULATION and ORDER TO CONTINUE  
THE STATUS CONFERENCE.**

## BACKGROUND

This case is set for status conference on December 7, 2022. The Supreme Court has emphasized that the Speedy Trial Act's end-of-justice provision "counteract[s] substantive openendedness with procedural strictness," "demand[ing] on-the-record findings" in a particular case. *Zedner v. United States*, 547 U.S. 489, 509 (2006). "[W]ithout on-the-record findings, there can be no exclusion under" § 3161(h)(7)(A). *Id.* at 507. Moreover, any such failure cannot be harmless. *Id.* at 509; *see also United States v. Ramirez-Cortez*, 213 F.3d 1149, 1153 (9th Cir. 2000) (explaining that a judge ordering an ends-of-justice continuance must set forth explicit findings on the record "either orally or in writing").

Ends-of-justice continuances are excludable only if “the judge granted such continuance on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.” 18 U.S.C. § 3161(h)(7)(A). Moreover, no such period is excludable unless “the court sets forth, in the record of the case, either orally or in writing, its reason or

1 finding that the ends of justice served by the granting of such continuance outweigh the best interests of  
2 the public and the defendant in a speedy trial.” *Id.*

3 In light of the foregoing, this Court should consider the following case-specific facts in finding  
4 excludable delay appropriate in this particular case under the ends-of-justice exception, § 3161(h)(7)  
5 (Local Code T4). If continued, this Court should designate a new date for the status conference. *United*  
6 *States v. Lewis*, 611 F.3d 1172, 1176 (9th Cir. 2010) (noting any pretrial continuance must be  
7 “specifically limited in time”).

8 **STIPULATION**

9 Plaintiff United States of America, by and through its counsel of record, and defendant, by and  
10 through defendant’s counsel of record, hereby stipulate as follows:

11 1. By previous order, this matter was set for a status conference on December 7, 2022.

12 2. By this stipulation, the defendant moves to continue this matter to February 1, 2023 and  
13 to exclude time between December 7, 2022 and February 1, 2023 under 18 U.S.C. § 3161(h)(7)(A),  
14 B(iv) [Local Code T4].

15 3. The parties agree and stipulate, and request that the Court find the following:

16 a) The government provided discovery to the defense on November 18, 2022. The discovery  
17 consists of numerous recorded jailhouse phone calls, investigative reports, photographs,  
18 and other information.

19 b) On November 29, 2022, new counsel for the defendant was appointed. New counsel for  
20 defendant desires additional time to consult with her client, review the discovery, and  
21 conduct an independent investigation. Counsel for defendant believes that failure to grant  
22 the above-requested continuance would deny him/her the reasonable time necessary for  
23 effective preparation, taking into account the exercise of due diligence.

24 c) The government does not object to the continuance.

25 d) Based on the above-stated findings, the ends of justice served by continuing the case as  
26 requested outweigh the interest of the public and the defendant in a trial within the  
27 original date prescribed by the Speedy Trial Act.

28 e) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161, et seq.,

1 within which trial must commence, the time period of December 7, 2022 to February 1  
2 2023, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv)  
3 [Local Code T4] because it results from a continuance granted by the Court at  
4 defendant's request on the basis of the Court's finding that the ends of justice served by  
5 taking such action outweigh the best interest of the public and the defendant in a speedy  
6 trial.

7 4. Nothing in this stipulation and order shall preclude a finding that other provisions of the  
8 Speedy Trial Act dictate that additional time periods are excludable from the period within which a trial  
9 must commence.

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11 ///

12 ///

13 IT IS SO STIPULATED.

14 Dated: December 2, 2022

PHILLIP A. TALBERT  
United States Attorney

16  
17 /s/ ARIN C. HEINZ  
18 ARIN C. HEINZ  
Assistant United States Attorney

19 Dated: December 2, 2022

20 /s/ CHRISTINA M. CORCORAN  
21 Christina M. Corcoran  
Counsel for Defendant  
Jonathan Lopez

22 ORDER

23 IT IS SO ORDERED.

24  
25  
26 DATED: 12/2/2022

*Sheila K. Oberto*

27  
28 THE HONORABLE SHEILA K. OBERTO  
UNITED STATES MAGISTRATE JUDGE